

# Reforming the WTO Agreement on Agriculture

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## Reforming the WTO Agreement on Agriculture

As a member of the World Trade Organization (WTO), the United States has committed to abide by WTO rules and disciplines, including those under the Agreement on Agriculture (AoA) that govern domestic farm policy. The AoA subjects national agricultural policies to a set of disciplines, including market liberalization commitments, which were implemented from 1995 to 2004. Since 2004, there has been limited reform in AoA rules governing global agricultural trade despite protracted negotiations. The 12<sup>th</sup> Ministerial Conference (MC12), which was originally to convene in June 2020 in Kazakhstan, was expected to reignite the reform process. Due to the global outbreak of Coronavirus Disease 2019 (COVID-19), MC12 is postponed and likely to convene sometime in mid- to late 2021.

Under the AoA, WTO members agreed to reform their domestic agricultural support policies, increase access for imports, and reduce export subsidies. The disciplines on these three “pillars” of agricultural policy involved freezing subsidies, tariffs, and other domestic support programs at certain levels, then instituting annual reductions from these levels. These commitments varied across developed, developing, and least-developed countries (LDCs). Developing countries and LDCs received special treatment, with a longer implementation period and less stringent reduction commitments.

In 2001, WTO members launched a new round of negotiations, known as the Doha Round, to address, among other issues, continued agriculture reforms. The Doha Round has been largely at an impasse since 2009. Nonetheless, WTO members have reached limited agreements on some agricultural issues raised during the Doha Round. MC12 provides another opportunity for members to reach additional limited agreements. The current negotiating framework for MC12 has identified specific areas where WTO members can agree to establish negotiating goals and the processes to achieve these goals. These areas include reforming the three pillars of agricultural policy: improving market access, reducing domestic support, and eliminating export subsidies. In addition, the framework includes new issues of importance to the developing countries that emerged during the Doha Round of negotiations. These are specific to the developing countries and include (1) trade and development programs for cotton and related products, (2) the ability to use tariffs to “safeguard” domestic production of poor and vulnerable farmers, and (3) a provision that allows government purchase, storage, and distribution of staple grains (known as public stockholding) for food security purposes.

Ongoing efforts for AOA reform may be shaped by the negotiating framework that the Chair of the WTO Committee on Agriculture developed for MC12 based on proposals and discussion papers submitted by WTO members. Although the Chair’s negotiating framework currently remains in place for MC12 talks, it could be changed by the time MC12 convenes in 2021 due to the COVID-19 outbreak. In particular, the pandemic has highlighted various weaknesses in global food production and distribution systems, raised questions regarding WTO member compliance with their AoA commitments, and raised other agriculture-related questions involving farm labor, the environment, and disruptions to global food supply chains. Given these new issues, WTO members may submit other issues for consideration, and the negotiating framework developed for the June 2020 conference may be revised in advance of MC12 in 2021.

The impact of COVID-19 on the agricultural sector and trade, combined with other trade actions affecting the agriculture sector (e.g., U.S. tariffs imposed on goods from China and China’s retaliatory tariffs on U.S. agricultural products), has resulted in projections of declines in farm incomes and increased bankruptcy of many U.S. farmers and agribusiness companies. The U.S. Department of Agriculture’s (USDA’s) response to export losses due to the U.S.-China trade dispute and the farm-sector losses associated with the COVID-19 pandemic include large payments to the U.S. farm sector that may potentially raise questions about U.S. compliance with its commitments under the AoA. Congress may consider various options to modify its safety net to the U.S. farm sector to ensure that the United States complies with these commitments. Further, congressional oversight hearings and other discussions with the executive branch could focus on WTO reforms on agriculture policy to shape the negotiating framework leading up to MC12.

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## Introduction

As a member of the World Trade Organization (WTO), the United States has committed to abide by its rules and disciplines, including those under the Agreement on Agriculture (AoA). The AoA, which took effect when the WTO was established on January 1, 1995, brought agricultural trade, for the first time, under a set of international rules and disciplines analogous to those that have long applied to trade in other goods.

The AoA was envisioned as a first step in the process of global market liberalization in the agricultural sector. It required developed countries to implement reforms over a six-year period (1995 to 2000) and developing countries over a 10-year period (1995 to 2004). To create a further impetus for reform, Article 20 of the AoA specified that “negotiations for continuing the [reform] process will be initiated one year before the end of the implementation period.”<sup>1</sup> However, WTO members have agreed on few further reforms. The WTO’s 12<sup>th</sup> Ministerial Conference (MC12), postponed due to the global outbreak of Coronavirus Disease 2019 (COVID-19), is expected to convene in 2021,<sup>2</sup> and to focus on “elements and processes” for continued liberalization in the agricultural sector.<sup>3</sup>

The COVID-19 outbreak has highlighted various weaknesses in global food supply chains and emphasized concerns related to agricultural issues not addressed in the AoA, such as with regard to farm labor and the environment.<sup>4</sup> These new issues and the postponement of MC12 could represent a window of opportunity for Congress to consider how the United States could shape the negotiations over trade in agricultural products at MC12 and beyond.

## The WTO and Agriculture

The WTO is an international organization that administers rules and agreements negotiated by its 164 members to eliminate trade barriers.<sup>5</sup> It also serves as a forum for resolving trade disputes. The WTO encompasses and expands on the commitments and institutional functions of the General Agreement on Tariffs and Trade (GATT), established in 1947. Through the GATT and the WTO, the United States and other countries sought to establish a more open, rules-based trading system, with the goal of fostering international economic cooperation, stability, and prosperity. Today, approximately 98% of world trade takes place among WTO members.<sup>6</sup>

<sup>1</sup> World Trade Organization (WTO), *The Results of the Uruguay Round of Multilateral Trade Negotiations: Legal Text, Agreement on Agriculture, Article 20, Continuation of the Reform Process*, 1995.

<sup>2</sup> WTO, “Twelfth WTO Ministerial Conference,” March 2020, at [https://www.wto.org/english/thewto\\_e/minist\\_e/mc12\\_e/mc12\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc12_e/mc12_e.htm); and Inside U.S. Trade, “Kazakhstan ‘Remains Ready’ to Host WTO Ministerial in June 2021,” April 27, 2020.

<sup>3</sup> WTO, “Eyeing MC12 for an Outcome, Agriculture Negotiators Focus on Doable Elements and Processes,” February 24, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/agri\\_24feb20\\_e.htm](https://www.wto.org/english/news_e/news20_e/agri_24feb20_e.htm).

<sup>4</sup> For examples, see Kate Hooper and Camille Le Coz, “A Race Against the Clock: Meeting Seasonal Labor Needs In The Age of COVID-19,” Migration Policy Institute, March 2020, at <https://www.migrationpolicy.org/news/meeting-seasonal-labor-needs-age-covid-19>; OECD, “How Are Trade And Environmental Sustainability Compatible?” Trade and The Environment, accessed May 12, 2020, at <https://www.oecd.org/trade/topics/trade-and-the-environment/>; and United Nations Food and Agriculture Organization (FAO), “Joint Statement On COVID-19 Impacts On Food Security And Nutrition,” FAO, International Fund for Agricultural Development, the World Bank and the World Food Program on the occasion of the Extraordinary G20 Agriculture Ministers’ Meeting, April 21, 2020, at <http://www.fao.org/news/story/en/item/1272058/icode/>.

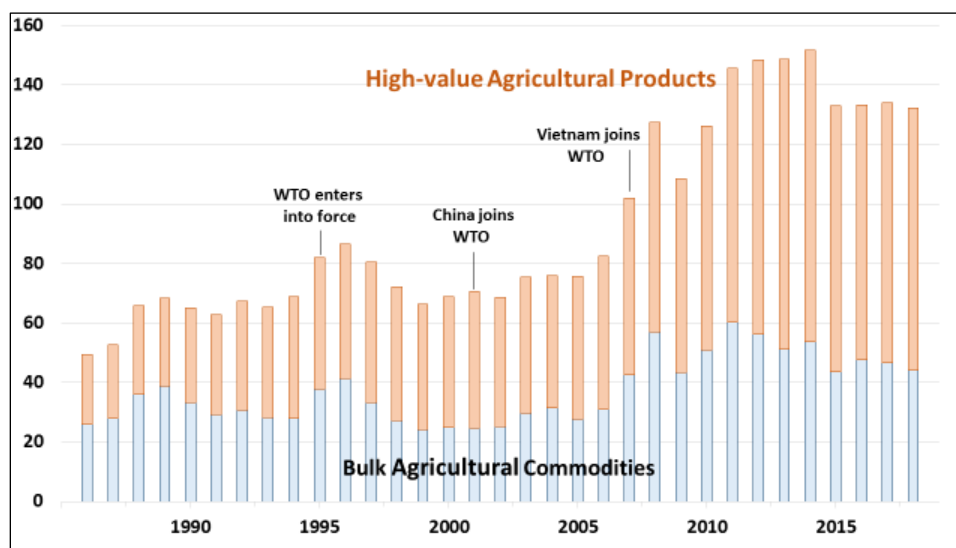
<sup>5</sup> CRS Report R45417, *World Trade Organization: Overview and Future Direction*, coordinated by Cathleen D. Cimino-Isaacs.

<sup>6</sup> Ibid.

Since the WTO was signed and the AoA entered into force in 1995, U.S. agricultural exports have increased 61% in inflation-adjusted terms. The growth was largely due to the increase in the value of high-value food products like fruit, vegetables, meat, dairy, and packaged foods. The high-value share of U.S. agricultural exports rose from 54% in 1995 to 67% in 2018 (**Figure 1**).

**Figure 1. U.S. Agricultural Exports**

Billions of 2015 U.S. Dollars

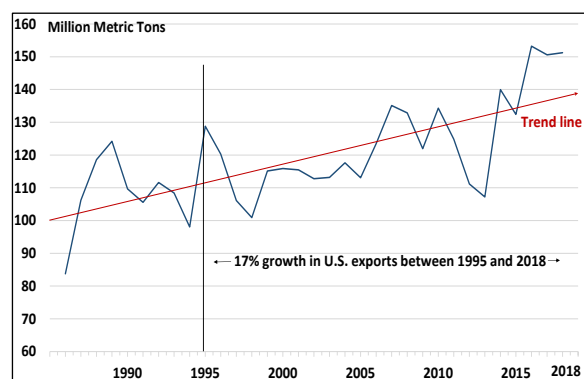


**Source:** U.S. Census Bureau Trade Data from USDA, Foreign Agricultural Service, accessed May 13, 2020, at <https://apps.fas.usda.gov/gats/ExpressQuery1.aspx>.

The growth in U.S. agricultural exports is partly attributable to the increase in WTO membership from 77 members in January 1995 to 164 by July 2016. Further, the number of countries to which the United States exported more than \$1 billion of agricultural products increased from 26 countries in 1995 to 42 in 2018. Some countries that are now among the major markets for U.S. agricultural exports joined the WTO in the early 2000s: Jordan (2000), China (2001), Cambodia (2004), Saudi Arabia (2005), and Vietnam (2007).

Between 1995 and 2018, the U.S. export volume of bulk agricultural commodities like grains, oilseeds, and cotton grew by about 1.1% annually, or 17% over the period (**Figure 2**). However, the overall value of exports did not increase during this same period, as the prices per ton of major U.S. bulk agricultural commodities fell by 40% to 50% since

**Figure 2. U.S. Bulk Agricultural Exports**



**Source:** U.S. Census Bureau Trade Data from USDA, Foreign Agricultural Service, accessed May 13, 2020, at <https://apps.fas.usda.gov/gats/ExpressQuery1.aspx>. Trend line calculated by CRS.

2012.<sup>7</sup> Lower bulk commodity prices, rather than reduced export volume, lie behind the decline in the value of U.S. commodity exports.

## The Three Pillars of the Agreement on Agriculture

During the creation of the AoA, negotiators acknowledged that dealing only with countries' barriers to imports of agricultural products, such as tariffs and import quotas, would not create substantially more open markets. In particular, they considered that policies that supported domestic prices or subsidized output tended to encourage overproduction, which, in turn, could squeeze out imports or lead producers to export their surplus output at subsidized prices. As a result, the negotiators decided that countries must accept some disciplines on domestic policies, when those policies could significantly affect the flow of international trade.<sup>8</sup>

Under the AoA, WTO members agreed to reform their policies in three areas, commonly referred to as the three "pillars" of agricultural support: (1) access to imports, (2) domestic agricultural support policies, and (3) export subsidies. The disciplines on these three "pillars" involved freezing ("binding") tariff rates, import quotas, export subsidies, and domestic support outlays at certain levels based on calculations from specific years (known as a "base period"), then instituting annual reductions from these levels. However, not all countries were required to comply in the same way. Specifically, these commitments varied across three groupings: developed, developing, and least-developed countries (LDCs). Article 15 of the AoA grants "special and differential treatment" to developing countries and LDCs. The specific commitments made by individual countries are listed in documents called "schedules of concessions," which reflect each country's promised tariff and subsidy reductions and other policy changes.

The AoA required WTO members that identified themselves as developed countries to implement reforms over a six-year period (1995 to 2000). Members that deemed themselves developing countries were granted a 10-year implementation period (1995 to 2004) and subject to less stringent reduction obligations (**Table 1**).<sup>9</sup> Countries deemed by the United Nations to be LDCs<sup>10</sup> were not required to make any reduction commitments across the three pillars.<sup>11</sup> After the respective implementation periods, countries' schedules of commitments under the AoA remain frozen until the successful completion of a new round of trade negotiations.

## Market Access

To improve market access, the AoA seeks to reduce tariffs and non-tariff barriers. However, to permit members to address domestic political concerns, it also allows some countries to designate products as "sensitive" to control the levels of their imports.

<sup>7</sup> U.S. Department of Agriculture (USDA), World Agricultural Supply and Demand Estimates, historical database maintained by CRS.

<sup>8</sup> CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*, by Randy Schnepf.

<sup>9</sup> The WTO does not have specific criteria for designating a country as "developing" or "developed." Instead, member countries may self-designate. Many developed countries, including the United States, have questioned the self-designated "developing" countries, and recommend that a more formal procedure be established for a country to be able to benefit from developing country status, or for a country to eventually "graduate" from such status.

<sup>10</sup> For a list of LDC member countries, see WTO, Understanding the WTO: The Organization, "Least-Developed Countries," at [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org7\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org7_e.htm).

<sup>11</sup> WTO, Agreement on Agriculture, article 15 (hereinafter AoA).

**Table 1. Agricultural Subsidy and Tariff Reductions Under the WTO's AoA**

Percent Reductions from Base Period (defined in table notes)

	Developed Countries	Developing Countries
<b>Tariff reduction<sup>a</sup></b>		
-average for all products	-36%	-24%
-minimum per product	-15%	-10%
<b>Trade-distorting domestic support<sup>b</sup></b>	-20%	-30%
<b>Export subsidy<sup>c</sup></b>		
-subsidized value	-36%	-24%
-subsidized quantity	-21%	-14%
<b>Implementation period<sup>d</sup></b>	6 years: 1995-2000	10 years: 1995-2004

**Source:** WTO Legal Text, *Agreement on Agriculture*, [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm).

**Notes:** AoA = Agreement on Agriculture. LDCs were required to not increase domestic subsidies and tariffs beyond base-year levels, but were not required to reduce them.

- The base level for tariff cuts was the bound rate before January 1, 1995; for unbound tariffs, reductions were measured against the actual rate charged in September 1986.
- Trade-distorting domestic support subject to an agreed-to spending limit includes all non-exempt “amber box” outlays as described in Box 1 below. The base period for domestic support reductions was 1986-1988 for countries joining the WTO in January 1995. Countries joining the WTO after 1995 specified a base period in their country schedules.
- Each country's schedule of commitments specifies allowable subsidized export volume, as well as permitted subsidy expenditure for each listed commodity. The base period for export subsidy reduction was 1986-1990.
- Countries that acceded to the WTO after January 1995 had their implementation period and reduction rates specified in their country-specific schedule of commitments.

With respect to tariffs, the AoA obligated members to bind tariffs and, except for the LDCs, to reduce them over time. If a WTO member increases a tariff above the bound level, it must notify the WTO and compensate the members whose exports are affected. In practice, many developing countries set their bound tariff rates far higher than the tariffs they actually imposed on imports, so that subsequent reductions to the bound rates have had little effect on the applied rates and market access.

The gap between the bound and applied rate is referred to as “water in the tariff.” For many countries—including significant U.S. trading partners such as India, Bangladesh, and Kenya—the water in the tariff for agricultural products represents more than a third of the bound rate. Thus, even if those countries' bound tariffs were cut by one-third, the tariffs they apply to imports from the United States would not be affected. The water-in-the-tariff issue has continued to prove a challenge for the WTO, with negotiators unable to reach a consensus on how to devise a formula based on bound tariff rates that could effectively reduce applied tariff rates.<sup>12</sup>

With regard to non-tariff barriers, WTO members agreed to convert restrictions such as quotas and import bans to tariffs (a process known as “tariffication”) and agreed generally not to create

<sup>12</sup> For more on this issue, see Anita Regmi and John Wainio, “Varying Tariff Profiles Illustrate Difficulties in Negotiating Cuts,” *Amber Waves*, USDA, Economic Research Service (ERS), September 2006, p. 27.



new non-tariff barriers.<sup>13</sup> To protect products designated as “sensitive,” countries were permitted to introduce tariff-rate quotas (TRQs).<sup>14</sup> A TRQ effectively provides two different tariff rates for a single product: imports within a set quota volume are subject to a low rate, while imports above the set quota face a much higher tariff. Under Canada’s TRQs, for example, within-quota imports of U.S. dairy and poultry products face a zero tariff, but imports beyond the quota face tariffs of over 200%.<sup>15</sup>

The AoA also allows WTO members to impose special safeguards, in the form of additional duties on imports when import volumes exceed a preset volume or when import prices fall below a preset level, to protect the products that underwent tariffication.<sup>16</sup> For example, if a country has converted a TRQ to a normal tariff and notified the WTO of this conversion, it may impose special safeguards after imports exceed the volume set in its schedule. Additional duties can then be levied immediately, but only until the end of the year in which they were imposed.<sup>17</sup> To date, 39 WTO members have listed products as eligible for protection with special safeguards.<sup>18</sup>

## Domestic Support

With respect to domestic support, WTO members agreed: first, to categorize and report domestic support spending according to the degree that each program distorts market conditions, and second, to implement disciplines—including spending limits and gradual reductions—on domestic agricultural subsidies, especially on the most trade-distorting policies. The AoA spells out how countries determine whether their policies are potentially trade-distorting; how to calculate the costs of any distortion using a specially defined indicator, the “Aggregate Measure of Support” (AMS); and how to report those costs to the WTO.<sup>19</sup> While the AMS for each country is subject to a spending limit, the AoA provides three potential exemptions from the AMS spending limit (see **Box 1**).

First, if a program’s outlays are considered minimally or non-trade-distorting (in accordance with specific criteria listed in Annex 2 of the AoA), then they may qualify as “green box” programs and need not be included in the calculation of the AMS. Second, if program spending is deemed trade-distorting but has offsetting features that limit the agricultural production associated with support payments, then they may qualify as “blue box” programs and will not be included in the AMS. Third, if AMS outlays are sufficiently small relative to the value of the output—measured as a share of either product-specific or non-product-specific output—then they may be exempted (as *de minimis*). Any support that does not fall within these three exemptions constitutes the “amber box” category of trade-distorting subsidies, and must be reported as part of the total AMS.

At the time the WTO was established in 1995, most members did not provide monetary support to their agricultural sectors, and the United States, Japan, and the European Union (EU) accounted for almost all trade-distorting agricultural subsidies. As a result, many countries, particularly developing countries, did not specify binding limits on their trade-distorting outlays. Pursuant to

<sup>13</sup> WTO, AoA, Article 4.

<sup>14</sup> See WTO, AoA, Annex 5; WTO, Market Access, at [https://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/agric_e.htm).

<sup>15</sup> CRS Report R45661, *Agricultural Provisions of the U.S.-Mexico-Canada Agreement*, by Anita Regmi.

<sup>16</sup> WTO, AoA, Article 5, updated in 2004, at [https://www.wto.org/english/tratop\\_e/agric\\_e/negs\\_bkgrnd11\\_ssg\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd11_ssg_e.htm).

<sup>17</sup> WTO, AoA, Article 5.4.

<sup>18</sup> WTO, Market Access: Special Agricultural Safeguards, at [https://www.wto.org/english/tratop\\_e/agric\\_e/negs\\_bkgrnd11\\_ssg\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd11_ssg_e.htm).

<sup>19</sup> CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*, by Randy Schnepf.

the AoA, these countries must therefore limit their agricultural subsidies to the relevant de minimis thresholds—5% of the value of agricultural production for developed countries and 10% for developing countries, including LDCs.<sup>20</sup>

### Box 1. WTO Classification of Domestic Agricultural Support

The WTO's AoA classifies program spending according to the degree of market distortion.<sup>21</sup>

**Aggregate Measure of Support (AMS)** sums in monetary terms the market-distorting domestic support program outlays.<sup>22</sup> AMS encompasses two types of support provided as a benefit to agricultural producers: product-specific support (i.e., benefits linked to a specific commodity) and non-product-specific support (general benefits not linked to a specific commodity). Certain program spending may be excluded from the AMS by green or blue box criteria (see below). AMS outlays may also be eligible for exemption from counting against spending limits by product- or non-product-specific de minimis, 5% spending thresholds for developed countries (see below).

**Amber box** outlays are non-exempt AMS (i.e., after accounting for permissible exemptions). Amber box outlays **are** subject to strict aggregate annual spending limits. The United States has committed to an annual spending limit of \$19.1 billion for amber box outlays. In its 2016 notification to the WTO (its most recent), the United States declared \$16.4 billion of AMS outlays prior to exemptions, of which only \$3.8 billion counted against the amber box spending limit due to de minimis exemptions (see below).

**Green box** programs are minimally or non-trade-distorting and **are not** subject to any spending limits. In its 2016 notification, the United States declared \$119.5 billion in green box outlays for that year.<sup>23</sup>

**Blue box** programs are described as market-distorting but have offsetting features that limit the production associated with support payments. Payments are based on either a fixed area or yield or a fixed number of livestock, and are made on less than 85% of base production. As such, blue box programs **are not** subject to spending limits. The United States has not notified any programs to the WTO as blue box programs since 1995.

**De minimis exemptions** are spending that is sufficiently small (less than 5% of the value of production for developed countries; 10% for developing countries)—relative to either the value of a specific product or total production—to be deemed benign and, thus, excluded from counting against the amber box limit. In its 2016 notification, the United States declared a total of \$12.6 billion in de minimis exemptions, including \$5.2 billion in product-specific and \$7.4 billion in non-product-specific exemptions.

In addition to the green box, blue box, and de minimis exemptions, the timing of outlays across crop, calendar, or marketing years may influence the calculation of total AMS spending for any given year, which can help avoid exceeding the amber box spending limit during a particular time period.

## Export Subsidies

Each WTO member has a schedule of commitments that, among others, specifies the allowable volume of subsidized exports as well as the permitted subsidy expenditure for each listed commodity. Under the AoA, countries agreed to reduce export subsidy expenditures and limit the

<sup>20</sup> China negotiated a special 8.5% de minimis exemption at the time of its accession to the WTO. About three dozen of the 164 WTO members—including the United States, the EU, and Japan—have binding amber box limits specified in their WTO country schedules.

<sup>21</sup> For more on this, see CRS Report R46263, *Foreign Trade Remedy Investigations of U.S. Agricultural Products*, by Anita Regmi, Nina M. Hart, and Randy Schnepf.

<sup>22</sup> For more on AMS, see CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*, by Randy Schnepf. For a legal definition, see the AoA's Article 1, "Definition of Terms," and Article 6, "Domestic Support Commitments." For details on the calculation of AMS, see the AoA's Annex 3, "Domestic Support: Calculation of Aggregate Measure of Support," and Annex 4, "Domestic Support: Calculation of Equivalent Measure of Support."

<sup>23</sup> The criteria are listed in "Annex 2: Domestic Support—The Basis for Exemption from The Reduction Commitments," AoA, at [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_02\\_e.htm#annII](https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#annII).

introduction of new export subsidies. The WTO's 10<sup>th</sup> Ministerial Conference in Nairobi in December 2015 expanded on this commitment (described below in "Export Competition Rules").

## Reforming the AoA

The AoA was envisioned as a first step in the process of global market liberalization in the agricultural sector. During the AoA's early years, Article 13, known as the Peace Clause or "due restraint" clause, provided impetus for countries to reform their agricultural policies. The Peace Clause temporarily blocked other WTO members from imposing certain retaliatory measures in reaction to market-distorting agricultural support and export subsidy measures of a member country. Additionally, Article 20 of the AoA specified that "negotiations for continuing the [reform] process will be initiated."<sup>24</sup> The impending expiration of the Peace Clause,<sup>25</sup> coupled with Article 20's directive to initiate further negotiations, led WTO members to launch the Doha Round of negotiations in November 2001 with the meeting of trade ministers (known as a "ministerial") in Doha, Qatar.<sup>26</sup> The Ministerial Declaration, known as the Doha Declaration or Doha Development Agenda because of its focus on improving the trading prospects of developing countries, provided a mandate for the round.<sup>27</sup> While the Doha Round negotiations involved a wide range of topics, agricultural trade reform was among the most contentious.

## The Doha Development Agenda

At the Doha Ministerial, WTO members agreed to continue reforming the rules governing the "three pillars" of support, (1) access to imports, (2) domestic agricultural support policies, and (3) export subsidies.<sup>28</sup> The Doha Declaration makes special and differential treatment for developing countries integral throughout the negotiations, both in countries' new commitments and in new or revised rules and disciplines. The declaration also confirmed that the negotiations would take into account the non-trade concerns (such as environmental protection, food security, and rural development) reflected in the negotiating proposals submitted by members.

Subsequent meetings of ministers and other negotiations following Doha led to the development of draft negotiating objectives and frameworks that added detail to the broader principles set out in the Doha Declaration.<sup>29</sup> WTO members have made binding commitments based on some of the proposals, while most remain outstanding.

<sup>24</sup> WTO, *The Results of the Uruguay Round of Multilateral Trade Negotiations: Legal Text*, Agreement on Agriculture, Article 20, Continuation of the Reform Process. The AoA mandated new negotiations "one year before the end of the implementation period" (i.e., January 2000), but due to procedural and organizational issues, the new round was launched in 2001. WTO, "General Council: Minutes of Meeting, February 7-8, 2000," WT/GC/M/53, March 15, 2000.

<sup>25</sup> WTO, AoA, Article 1.f. There has never been a definitive statement as to when the Peace Clause expired, with the only WTO panel to address it finding that it lasted "at least until the end of 2003." It could have expired later in 2004; see WTO, *Mexico-Definitive Countervailing Measures on Olive Oil from the European Communities*, WT/DS341/R, paragraph 7.53, adopted October 21, 2008.

<sup>26</sup> WTO, "The Doha Round," accessed January 2020, at [http://www.wto.org/english/tratop\\_e/dda\\_e/dda\\_e.htm](http://www.wto.org/english/tratop_e/dda_e/dda_e.htm).

<sup>27</sup> WTO, "The Doha Ministerial Declaration," November 2001, at [https://www.wto.org/english/tratop\\_e/dda\\_e/dda\\_e.htm#declaration](https://www.wto.org/english/tratop_e/dda_e/dda_e.htm#declaration).

<sup>28</sup> Ibid.

<sup>29</sup> WTO, "Doha Work Programme: Decision Adopted by the General Council on 1 August 2004," WT/L/579, August 2, 2004; and WTO, "Doha Work Programme: Ministerial Declaration Adopted on 18 December 2005," WT/MIN(05)/DEC, 22, December 2005.

## 2008 Negotiating Framework

By 2008, WTO members made progress on creating a final negotiating framework, which included detailed objectives and set out the proposed approaches for attaining these objectives. However, the members also understood that these proposed approaches could be subject to change as the Doha Round progressed.<sup>30</sup>

### Market Access

The 2008 framework sought to improve market access for agricultural products primarily by using a tiered formula for tariff cuts, based on the principle that higher tariff rates should be cut by a larger percentage. The proposed cuts would be made from each country's "bound rates," which could be substantially higher than rates actually applied. Developing countries would cut tariffs by two-thirds of the equivalent tier for developed countries, with those also qualifying as "small, vulnerable economies" subject to more limited reduction obligations. LDCs would be exempt from any tariff cuts.<sup>31</sup>

Under the negotiating framework, a limited number of products would also be subject to smaller tariff cuts because of flexibilities. These included products designated as *sensitive* (available to all countries) or *special* (available to developing countries). As discussed earlier, sensitive products would undergo tariffication, and special safeguards could be used to protect them. Developing countries could designate up to 12% of their total agricultural tariff lines as "special" for reasons of food and livelihood security or rural development. Furthermore, the negotiating framework included the proposal to allow developing countries to use a Special Safeguard Mechanism (SSM) to protect their poor and vulnerable producers.<sup>32</sup>

### Domestic Support

Under the 2008 framework,<sup>33</sup> negotiators proposed tightening qualifications for exemptions under the green box, and making further cuts across three levels of domestic support spending:

1. Spending limits for total outlays within each category—amber box, blue box, and the two de minimis provisions—would be reduced substantially.
2. In addition to a limit on total outlays across all commodities within each category of spending, additional commodity-specific constraints would apply to support for each individual product.
3. A global spending limit—referred to as the overall trade-distorting domestic support (OTDS)—encompassing the four categories of amber box, blue box, and the two de minimis provisions established at a level substantially smaller than the sum of their individual limits was proposed by some WTO members.

<sup>30</sup> Specific goals and the processes developed to achieve these goals, such as a formula for reducing tariffs and subsidies, are known as "modalities"; see WTO, Committee on Agriculture (COA), "Draft Possible Modalities on Agriculture," TN/AG/W/3, July 12, 2006.

<sup>31</sup> WTO, "Revised Draft Modalities for Agriculture," TN/AG/W/4/ Rev. 4, December 6, 2008.

<sup>32</sup> WTO, "Revised Draft Modalities for Agriculture Special Safeguard Mechanism," TN/AG/W/7, December 6, 2008.

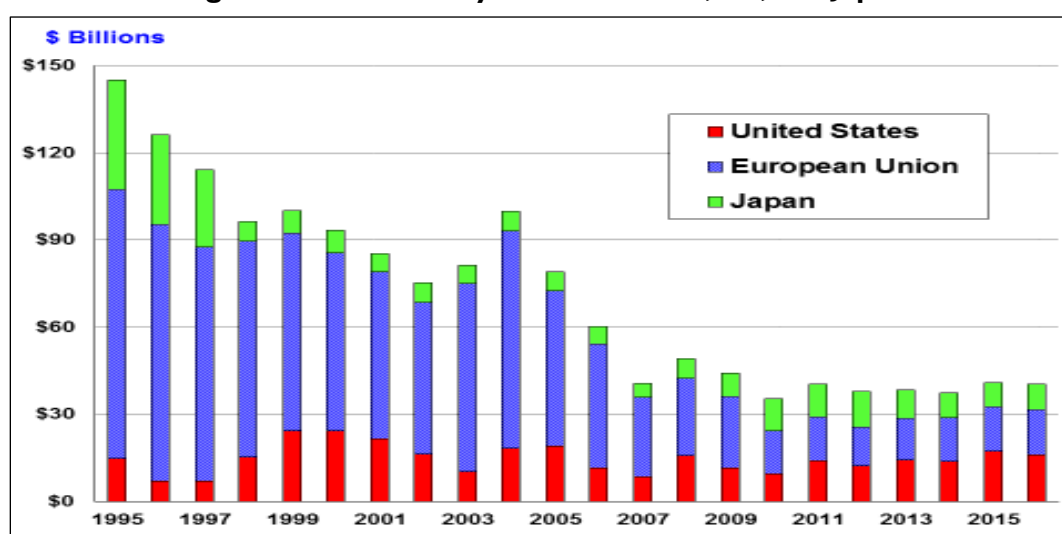
<sup>33</sup> WTO, Hong Kong Ministerial Declaration, "Agriculture negotiations #5," December 18, 2005.

Negotiators from several countries—including those from the Cairns group<sup>34</sup> of export-oriented countries and a group of developing countries (the G33)<sup>35</sup>—expressed concern that some wealthier WTO members might manipulate their domestic support programs to exploit funding opportunities across all four of the spending categories.<sup>36</sup> In an effort to preclude this from happening, these negotiators proposed creating a new measure of OTDS.

### *Overall Trade-Distorting Spending (OTDS)*

The OTDS includes all domestic support categories—the amber box, blue box, and de minimis (Figure 3). However, the proposed OTDS spending limit for each country would be established at a level substantially smaller than the sum of the individual limits for each category, thereby reducing the total domestic support a WTO member could provide.<sup>37</sup>

**Figure 3. OTDS Outlays: United States, EU, and Japan**



**Source:** Compiled by CRS from WTO official notifications of domestic support.

**Notes:** OTDS = Overall Trade-Distorting Domestic Support. OTDS includes domestic support outlays under the amber box, blue box, and de minimis provisions.

Although this measure has never been formally incorporated into the AoA, it is often referred to by policymakers and economists to compare the impacts of different domestic support programs.<sup>38</sup> For example, from 1995 through 2006, three WTO members—the United States, the EU, and Japan—accounted for 85% to 90% of global OTDS spending. However, in the early

<sup>34</sup> The Cairns group of agricultural exporting countries was created in August 1986. As of June 2020, it comprises Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, Uruguay, and Vietnam. See <https://www.cairnsgroup.org/Pages/Introduction.aspx>, accessed June 25, 2020.

<sup>35</sup> For more on the G33 group of developing countries, see WTO, “Groups in The Negotiations,” accessed June 2020, at [https://www.wto.org/english/tratop\\_e/dda\\_e/negotiating\\_groups\\_e.htm](https://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.htm).

<sup>36</sup> For details, see WTO, “Revised Draft Modalities for Agriculture,” TN/AG/W/4/ Rev. 4, WTO, December 6, 2008.

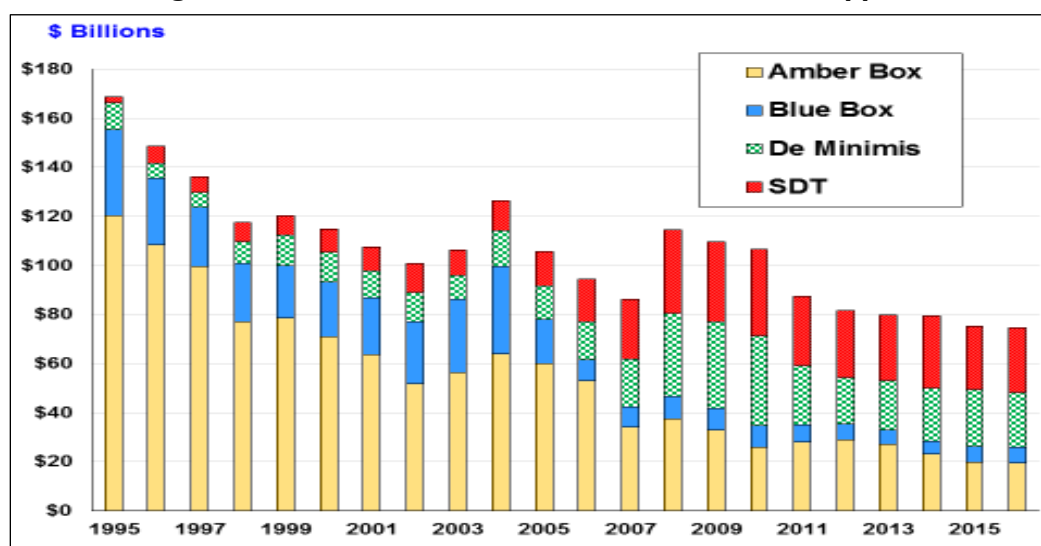
<sup>37</sup> WTO, “Revised Draft Modalities for Agriculture,” TN/AG/W/4/ Rev. 4, WTO, December 6, 2008.

<sup>38</sup> For example, see Lars Brink and David Orden, “Taking Stock And Looking Forward on Domestic Support Under The WTO Agreement on Agriculture,” International Agricultural Trade Research Consortium, Commissioned Paper No. 23, April 2020.

2000s, the EU initiated a series of domestic farm policy reforms that gradually reduced its OTDS (**Figure 3**).<sup>39</sup> At the same time, other WTO members have increased their outlays on domestic support policies. As a result, the combined share of global OTDS by the “big three” agriculture subsidizers has fallen to a range of 60% to 70% since 2006. This overall decline in the share of OTDS spending for the “big three” comes despite increased use of the de minimis exemption by the United States since 2007.<sup>40</sup>

In general, global OTDS (as notified by WTO member countries) has been trending down (**Figure 4**). However, many countries have increased the strategic use of de minimis provisions to exclude an increasing amount of market-distorting subsidies from counting against their WTO spending limits.<sup>41</sup> Similarly, many developing countries have expanded their use of a Special and Differential Treatment rule designed to encourage agricultural and rural development investments that exempts certain types of domestic investment and input subsidies from counting against WTO spending limits (Article 6.2 of the AoA).

**Figure 4. WTO Notifications of Global Domestic Support**



**Source:** Compiled by CRS from WTO official notifications of domestic support. The global totals presented in this chart are not official WTO totals, as several countries have not notified their domestic support for the period covered. Only available data from official notifications are included.

**Notes:** SDT = Special and Differential Treatment exemptions for developing countries related to certain types of domestic investment and input subsidies that encourage agricultural and rural development. The combined values for the amber box, blue box, and de minimis provisions equal Overall Trade-distorting Domestic Support. Green box support is not included in this chart.

<sup>39</sup> Under reform of the EU’s Common Agricultural Policy (CAP) during the early 2000s, the EU switched from price supports and other market-distorting subsidies to conservation programs and direct farm payments, which—according to article 5 of Annex II of the AoA—may be classified as green box and exempted from counting as part of the AMS.

<sup>40</sup> See CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*, by Randy Schnepf.

<sup>41</sup> CRS observation based on analysis of WTO notification data.



## Export Competition

The 2008 negotiating framework proposed eliminating export subsidies for developed countries by 2013 and developing countries by 2016.<sup>42</sup> It also proposed disciplining government-supported export financing to avoid hidden subsidies and ensure that programs operate on commercial terms. Additionally, food aid transactions would have to be needs-driven, fully in grant form, not tied directly or indirectly to commercial exports of agricultural or other products, and not linked to market development objectives.<sup>43</sup>

These export competition proposals were consistent with a number of U.S. initiatives to curtail export subsidies. For example, the 2008 farm bill (P.L. 110-234) repealed legislative authority for the Export Enhancement Program, historically the largest U.S. agricultural export subsidy program, and the 2014 farm bill (P.L. 113-79) repealed authority for the Dairy Export Incentive Program, a much smaller export subsidy program that was reauthorized in the 2008 farm bill. Similarly, the United States had already made substantial changes in its agricultural export financing programs in response to an adverse decision in a WTO dispute case over cotton.<sup>44</sup> However, conforming to the proposed changes regarding food-aid transactions would have required changes in U.S. food-aid programs.

## The AoA After Doha

Given the different policy interests of WTO members, they were not successful in concluding the large-scale Doha Round negotiations. During subsequent ministerial conferences, however, members reached agreement on a limited number of AoA reforms, demonstrating continued interest in the issues and approaches identified in the Doha Round.

## Market Access

The 2013 Bali Ministerial addressed TRQs<sup>45</sup> by clarifying that their application to agricultural products qualifies as an import license measure. Under the AoA, TRQ administration therefore requires certain transparency provisions to ensure that exporters have adequate and timely information to apply for the right to export under a portion of a TRQ.<sup>46</sup>

## Domestic Support

The Bali Ministerial also clarified that some general services programs that provide certain services or benefits to agricultural or rural communities may qualify for exemptions from domestic support disciplines.<sup>47</sup> These exceptions could apply to “programmes related to land

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<sup>42</sup> See CRS Report RS22927, *WTO Doha Round: Implications for U.S. Agriculture*, by Randy Schnepf.

<sup>43</sup> WTO, “Revised Draft Modalities for Agriculture,” TN/AG/W/4/ Rev.4, December 6, 2008.

<sup>44</sup> For more information, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*, by Randy Schnepf.

<sup>45</sup> WTO, “Ministerial Decision of 7 December 2013: Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture,” WT/MIN(13)/39, 2013.

<sup>46</sup> *Ibid.*, at paragraph 1. The WTO Agreement on Import Licensing Procedures also applies to TRQs for agricultural products.

<sup>47</sup> WTO, AoA, Annex 2, paragraph 2.

reform and rural livelihood security,” such as soil conservation and drought management measures, designed to “promote rural development and poverty alleviation.”<sup>48</sup>

## Export Competition Rules

At the 2015 Nairobi Ministerial, WTO members adopted a number of the 2008 Doha Round framework’s proposals regarding export subsidies.<sup>49</sup> Developed countries agreed to eliminate their export subsidies listed in their AoA commitment schedules as of December 19, 2015, and developing countries agreed to do so by the end of 2018.<sup>50</sup> Certain products were exempted. For example, if developed nations eliminated all export subsidies on products sent to LDCs, they could subsidize exports of processed products such as dairy and pork products through 2020.<sup>51</sup> Developing countries could use export subsidies to reduce the cost of marketing exports and to offset transport and freight charges until 2023, and LDCs and net food-importing developing countries could use export subsidies until the end of 2030.<sup>52</sup> For export subsidies not covered by these provisions, WTO members committed to freezing their export subsidies’ overall levels.<sup>53</sup> They also agreed to discipline certain forms of export credits, guarantees, or insurance for products covered by the AoA by imposing more commercial-based conditions on their receipt.<sup>54</sup>

## Public Stockholding Rules for Food Security

Some developing WTO members, such as India, feared that certain programs for ensuring food security, such as government purchase and maintenance of grain stocks for public distribution (known as public stockholding), might cause them to exceed their domestic support commitments.<sup>55</sup> During the Bali Ministerial in 2013, WTO members reached an interim agreement allowing developing countries to provide domestic support in excess of their commitments if the support goes to public stockholding programs designed to procure “primary agricultural products that are predominant staples in the traditional diet.”<sup>56</sup> So long as a developing country informs the WTO of the support granted, other WTO members may not file a dispute claiming that the stockholding program is causing the country to exceed the domestic support limit under its AoA commitment.<sup>57</sup>

The latter provision has provoked controversy. For example, India has relied on this interim arrangement to provide support for rice growers in excess of its allowable domestic support cap, and the United States has objected on several occasions that India has not adequately reported the

<sup>48</sup> WTO, “Ministerial Decision of 7 December 2013: General Services,” WT/MIN(13)/37, 2013.

<sup>49</sup> WTO, “Ministerial Decision of 19 December 2015: Export Competition,” WT/MIN(15)/45, paragraphs 7-8, December 2015.

<sup>50</sup> Ibid.

<sup>51</sup> The requirement to eliminate export subsidies for products sent to LDCs pertained only to subsidies previously notified to the WTO’s Committee on Agriculture. Ibid., paragraph 6, n. 4.

<sup>52</sup> Ibid., paragraph 8.

<sup>53</sup> Ibid., paragraph 10.

<sup>54</sup> As previously mentioned, the United States had already made substantial changes in its agricultural export financing programs in response to an adverse decision in a WTO dispute over cotton. For more on this, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*, by Randy Schnepf.

<sup>55</sup> See Agriculture Negotiations: Fact Sheet on the Bali Decision on Stockholding for Food Security in Developing Countries, at [https://www.wto.org/english/tratop\\_e/agric\\_e/factsheet\\_agng\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/factsheet_agng_e.htm).

<sup>56</sup> Ibid., paragraph 2, n. 25.

<sup>57</sup> Ibid.



cost of its stockholding program to the WTO. This type of disagreement about compliance with the terms of the interim agreement and resulting tensions among WTO members have inhibited them from finding a permanent solution on public stockholding.<sup>58</sup>

## Limited Reforms on Cotton

Trade in cotton has proved a particularly sensitive area among WTO members, with cotton or cotton-related products at issue in seven WTO disputes to date,<sup>59</sup> including a WTO ruling in favor of Brazil in a challenge to U.S. policies on cotton.<sup>60</sup> The Doha Round envisioned significant reforms to trade in cotton, including by reducing the amount of support that countries could provide to producers and removing export subsidies for cotton. Negotiations in this sector made little progress up to 2015,<sup>61</sup> when WTO members agreed to apply the export subsidy and export support disciplines described under “Export Competition Rules” to cotton.<sup>62</sup> Developed countries were required to apply the disciplines immediately, while developing countries were granted an extended implementation period to January 1, 2017.<sup>63</sup> Further, WTO members agreed to provide increased market access for cotton exported by LDCs. Specifically, developed countries were to provide tariff-free access for cotton and certain cotton-related products from LDCs. Developing countries were encouraged to offer similar market access for LDC cotton, if feasible.<sup>64</sup> Negotiations on reducing domestic support on cotton have been unsuccessful to date.

## Future Negotiating Framework

The WTO MC12—originally scheduled for June 8 to 11, 2020, in Nur-Sultan, Kazakhstan—would continue negotiations to reform the AoA. This Ministerial was postponed because of the COVID-19 pandemic, and is likely to be scheduled for 2021.<sup>65</sup>

In response to the pandemic, several WTO members have imposed temporary restrictions on exports of some foodstuffs in order to mitigate potential shortages.<sup>66</sup> Additionally, the pandemic

<sup>58</sup> WTO, “Ministerial Decision of 19 December 2015: Public Stockholding for Food Security Purposes,” WT/MIN(15)/44, paragraphs 1-2, December 2020.

<sup>59</sup> WTO, “Turkey—Safeguard Measures on Imports of Cotton Yarn (Other than Sewing Thread),” DS428, February 2012; WTO, “United States—Subsidies on Upland Cotton,” DS267, Resolved October 16, 2014; WTO, “United States—Transitional Safeguard Measures on Combed Cotton Yarn from Pakistan,” DS192, November 2001; WTO, “Argentina—Transitional Safeguard Measures on Certain Imports of Woven Fabric Products of Cotton and Cotton Mixtures Originating in Brazil,” DS190, Settled June 27, 2000; WTO, “European Communities—Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India,” DS141, April 24, 2003; WTO, “European Communities—Anti-Dumping Investigations Regarding Unbleached Cotton Fabrics from India,” DS140, 1998; WTO, “United States—Restrictions on Imports of Cotton and Man-Made Fibre Underwear,” DS24, 1997.

<sup>60</sup> For more on this, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*, by Randy Schnepf.

<sup>61</sup> See WTO, “Ministerial Decision of 7 December 2013: Cotton,” WT/MIN(13)/41, paragraph 3, December 2013, (“We regret that we are yet to deliver on the trade-related components of the 2005 Hong Kong Ministerial Declaration, but agree on the importance of pursuing progress in this area.”).

<sup>62</sup> WTO, “Ministerial Decision of 19 December 2015: Export Competition,” WT/MIN(15)/45, paragraph 12, 2015.

<sup>63</sup> Ibid. and WTO, “Ministerial Decision of 19 December 2015: Cotton,” WT/MIN(15)/46, paragraph 9, 2015.

<sup>64</sup> WTO, “Ministerial Decision of 19 December 2015: Cotton,” WT/MIN(15)/46, paragraphs 2, 4, 2015.

<sup>65</sup> WTO, “DG Azevêdo Provides Urgent Information to WTO members on MC12 Date and Venue,” March 12, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/minis\\_12mar20\\_e.htm](https://www.wto.org/english/news_e/news20_e/minis_12mar20_e.htm).

<sup>66</sup> For more on this, see WTO, “Export Restrictions and Prohibitions: Information Note,” April 23, 2020; and CRS In Focus IF11551, *Export Restrictions in Response to the COVID-19 Pandemic*, by Christopher A. Casey and Cathleen D. Cimino-Isaacs.

has affected food supplies by disrupting a number of commercial activities along the supply chain, ranging from inspection of food and agricultural products at destination ports to testing, processing, marketing, and retailing of food products. Moreover, social distancing measures—including shutdown of all but essential businesses—have contributed to unemployment and under-employment of a large share of the global population, thereby lowering food demand in certain markets.<sup>67</sup> These developments have not led to a public change in the agenda or current negotiating framework for MC12, although they may do so by the time MC12 occurs.

## Market Access

The negotiating framework shared by the chair of the WTO Committee on Agriculture proposed four elements on which, in his opinion, members might be able to reach a consensus at MC12:<sup>68</sup>

- A common regulatory practice to deal with import consignments en route at the time applied tariffs are changed (or raised).
- Steps toward basing all tariffs on a percentage of import value, rather than on weight or as a fixed amount per item.
- Improve transparency of the administration of TRQs.
- A framework for negotiating further market access reforms.

To provide input to the negotiating framework, the United States submitted a paper to the Committee on Agriculture highlighting the following areas of concern:<sup>69</sup>

- Gaps between applied and bound tariff rates, and tariffs bound as an amount per quantitative unit rather than as a percentage of import value.
- Very high tariffs, in some cases reaching 500%, on sensitive products.<sup>70</sup>
- Extensive use of tariff-rate quotas, with 40 members having more than 1,000 TRQs in their schedules, some with very high over-quota tariff rates.
- Extensive use of special agricultural safeguards, with 39 countries reserving the right to use them on an average of 18% of their agricultural tariff lines.

## Domestic Support

While some WTO members have indicated a desire for an ambitious reform program that would include reducing production-distorting domestic subsidies by at least 50% by 2030,<sup>71</sup> submissions

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<sup>67</sup> The International Monetary Fund (IMF) estimates that 170 countries globally will experience a decline in their per capita income levels in 2020. See Kristalina Georgieva, “A Global Crisis Like No Other Needs a Global Response Like No Other,” IMF, April 20, 2020. The International Labour Organization (ILO) estimates that the equivalent of approximately 130 million full-time jobs were lost during the first quarter of 2020, compared to the fourth quarter of 2019. See ILO, “ILO Monitor: COVID-19 and the World of Work,” Third Edition, Updated Estimates and Analysis, April 29, 2020.

<sup>68</sup> WTO, “Elements and Processes for A Possible Outcome in Agriculture at MC12,” JOB/AG/180, February 14, 2020.

<sup>69</sup> WTO, “Tariff Implementation Issues—June 2018 Update,” Communication from the United States of America, JOB/AG/141, July 25, 2018.

<sup>70</sup> Eighteen countries were identified as having bound tariffs exceeding 500%, among which seven also had applied tariffs exceeding 500%. These included Malaysia, Egypt, Switzerland, Korea, Taiwan, Norway, and Japan. For more on this, see WTO, “Tariff Implementation Issues—June 2018 Update,” Communication from the United States of America, JOB/AG/141, July 25, 2018.

<sup>71</sup> WTO, “Framework for Negotiations on Domestic Support,” Communication from Argentina, Australia, Brazil,

by other countries, including the United States, have focused on enhancing transparency in domestic support notifications.<sup>72</sup> Given the divergent priorities, the Committee on Agriculture chair has invited proposals from members that address the following:<sup>73</sup>

- A concrete goal for capping and reducing trade-distorting domestic support.
- Key principles and possible ways to achieve that goal.
- The importance of harmonizing support levels and reducing imbalances.
- The importance of taking into account characteristics of members' agricultural sectors, non-trade concerns, and levels of development.
- The importance of taking into consideration differences in the trade-distorting potential of individual categories of domestic support.
- The importance of respecting the prescribed criteria for less trade-distorting support programs.
- The importance of transparency.

A proposal submitted by the United States on February 19, 2020, focused on improving transparency in implementation of domestic support measures.<sup>74</sup> Specifically, the United States submission asserted that some countries' domestic support measures are not included or are inappropriately classified in their notifications to the WTO. The U.S. submission also states that members have repeatedly failed to report information necessary for other members to understand how the domestic support has been calculated, such as insufficient data regarding the volume of eligible production or the reference price used.

## **Export Competition**

Recognizing that the 2015 Nairobi Ministerial had substantially improved disciplines on export competition, the shared negotiating framework for MC12 identifies two key areas for further reform:<sup>75</sup>

- The exemption of foodstuffs purchased for noncommercial humanitarian purposes by the United Nations World Food Programme from the application of export restrictions.
- Establishing a timeline for advance notification before any member institutes an export prohibition or restriction.

The first element has been uncontroversial. However, some developing countries have suggested that the second element may introduce additional administrative burdens and present risks of market manipulation. The second element has also received significant attention since the

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Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, The Philippines, Thailand, Ukraine, Uruguay, and Vietnam, JOB/AG/177, January 23, 2020.

<sup>72</sup> WTO, "Notification of Select Domestic Support Variables in the WTO," Submission by the United States, JOB/AG/181, February 19, 2020.

<sup>73</sup> WTO, "Eyeing MC12 for an Outcome, Agriculture Negotiators Focus on Doable Elements and Processes," February 24, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/agri\\_24feb20\\_e.htm](https://www.wto.org/english/news_e/news20_e/agri_24feb20_e.htm).

<sup>74</sup> WTO, "Notification of Select Domestic Support Variables in the WTO," Submission by the United States, JOB/AG/181, February 19, 2020.

<sup>75</sup> WTO, "Eyeing MC12 for an Outcome, Agriculture Negotiators Focus on Doable Elements and Processes," February 24, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/agri\\_24feb20\\_e.htm](https://www.wto.org/english/news_e/news20_e/agri_24feb20_e.htm); and D. Ravi Kanth, "Chair Suggests Incremental Outcomes on SSM & PSH at MC12," *Third World Network*, February 18, 2020.

COVID-19 pandemic began, as at least 17 countries restricted exports of foodstuffs.<sup>76</sup> Among these, only six notified their export restrictions to the WTO as of May 4, 2020. In response to these restrictions, a number of WTO members, including the United States, issued a joint statement indicating that the measures that the WTO members take to address the pandemic should not adversely affect trade in agricultural and food products.<sup>77</sup>

## Cotton

Four West African cotton-growing countries are seeking the elimination of all trade-distorting subsidies on cotton, a position that is not supported by groups representing U.S. cotton producers.<sup>78</sup> These four countries—Benin, Burkina Faso, Chad, and Mali—won WTO support in November 2018 for an initiative to develop the economic potential of cotton by-products, with the goal of creating new income streams for cotton farmers and processors.<sup>79</sup>

## Special Safeguard Mechanism

WTO members' views on the creation of a special safeguard mechanism for developing countries diverge widely. The Chair of the Committee on Agriculture suggested that reform to the domestic support pillar of the AoA or reform to AoA's special agricultural safeguard might pave the way for negotiations on the special safeguard mechanism at MC12.<sup>80</sup>

## Public Stockholding for Food Security Purposes

The negotiating framework indicates that members remain divided on how to reach a permanent arrangement on public stockholding. Given the divergent views, the framework proposes that members largely leave the interim mechanism in place while curbing the potential for abuse by creating new transparency requirements and defining more precisely what crops and programs are covered by the mechanism.<sup>81</sup>

## Selected Views on MC12 AoA Negotiating Framework

In January 2020, 72 WTO member countries convened at an event organized by the German government and signed a communiqué stating their commitment to achieving sustainable

<sup>76</sup> WTO, "Export Prohibitions and Restrictions: Informational Note," April 23, 2020.

<sup>77</sup> WTO, "Responding to the COVID-19 Pandemic with Open and Predictable Trade in Agricultural and Food Products," A joint statement from Australia, Brazil, Canada, Chile, Colombia, Costa Rica, European Union, Hong Kong, Japan, South Korea, Malawi, Mexico, New Zealand, Paraguay, Peru, Qatar, Singapore, Switzerland, Taiwan, Ukraine, United Kingdom, United States, and Uruguay, 22 April 2020.

<sup>78</sup> For example, WTO, "WTO Negotiations on Agriculture," Communication from the Co-Sponsors of the Sectoral Initiative in Favour of Cotton, TN/AG/GEN/50 and TN/AG/SCC/GEN/22, February 17, 2020.

<sup>79</sup> WTO, "WTO Members Endorse Joint Initiative to Enhance Economic Potential of Cotton By-Products," Cotton Sub-Committee, November 29, 2018, at [https://www.wto.org/english/news\\_e/news18\\_e/cott\\_07dec18\\_e.htm](https://www.wto.org/english/news_e/news18_e/cott_07dec18_e.htm).

<sup>80</sup> WTO, "Eyeing MC12 for an Outcome, Agriculture Negotiators Focus on Doable Elements and Processes," February 24, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/agri\\_24feb20\\_e.htm](https://www.wto.org/english/news_e/news20_e/agri_24feb20_e.htm).

<sup>81</sup> D. Ravi Kanth, "Chair Suggests Incremental Outcomes on SSM & PSH at MC12," *Third World Network*, February 18, 2020; and WTO, "Eyeing MC12 for An Outcome, Agriculture Negotiators Focus on Doable Elements and Processes," February 24, 2020, at [https://www.wto.org/english/news\\_e/news20\\_e/agri\\_24feb20\\_e.htm](https://www.wto.org/english/news_e/news20_e/agri_24feb20_e.htm).

agricultural trade through the WTO and to taking actions to reform the agricultural sector at MC12.<sup>82</sup> The communiqué emphasized the group's commitment to the goals of the 2030 Agenda for Sustainable Development, in particular the goals on “zero hunger” (Sustainable Development Goal (SDG) 2) and “partnerships for the goals” (SDG 17).<sup>83</sup> This communiqué was signed by many European and South American countries, as well as Canada, China, Korea, Russia, and other developed and developing countries. The United States did not attend this event.

In February 2020, U.S. Ambassador to the WTO Dennis Shea remarked that the United States “sees the potential for a more responsive and effective WTO” and has been active in the ongoing discussion around agriculture.<sup>84</sup> He stated that the United States was engaging with other members to reflect on why past negotiating efforts failed and to identify new approaches that can lower high tariffs, reduce trade-distorting subsidies, and limit the application of non-tariff measures.

A group of developing countries, known collectively as the G33 countries, has expressed its support for multilateralism, development, and reforms to address inequities and imbalances existing in the AoA.<sup>85</sup> This group is interested in seeing policy instruments that will help address food security and rural development needs, including a Special Safeguard Mechanism and a permanent solution on Public Stockholding for Food Security Purposes.

China and India submitted a report to the Committee on Agriculture in which they point out that most developing countries are limited in providing domestic support to their agricultural sectors to de minimis levels.<sup>86</sup> In contrast, some developing and developed country members have established AMS, and are not limited to their de minimis levels. The two countries suggest that eliminating AMS be the ultimate goal of the reform of the AoA, but in the interim, an AMS ceiling should be established and expressed as a percentage of the value of total production, and a reduction schedule should be established on a product-specific basis.

In their submissions to the COA, the 19 exporters in the Cairns Group reiterated their desire to reduce domestic subsidies, improve market access, and continue reform in the area of export competition. The group stated that all existing trade- and production-distorting subsidies should be halved by 2030.<sup>87</sup>

In 2017, Argentina, Chile, and Uruguay released a comprehensive report with suggestions for reforming the AoA.<sup>88</sup> They expressed concern that reductions in AMS levels had not sufficiently

<sup>82</sup> Global Forum for Food and Agriculture, “Global Forum for Food and Agriculture Communiqué 2020: Food for All! Trade for Secure, Diverse and Sustainable Nutrition,” 12<sup>th</sup> Berlin Agriculture Ministers’ Conference, January 18, 2020, at <https://www.gffa-berlin.de/wp-content/uploads/2020/02/GFFA-Communique-2020-EN.pdf>.

<sup>83</sup> United Nations, “Sustainable Development Goals,” Knowledge Platform, accessed April 2020, at <https://sustainabledevelopment.un.org/?menu=1300>.

<sup>84</sup> Ambassador Dennis Shea, “U.S. Engagement at the World Trade Organization,” Remarks at the Asia Society, Washington DC, February 6, 2020, at <https://geneva.usmission.gov/2020/02/07/u-s-engagement-at-the-world-trade-organization/>.

<sup>85</sup> WTO, “Reaffirming Multilateralism and Development for MC12,” Submission by the G33, TN/AG/GEN/47, July 9, 2018.

<sup>86</sup> WTO, “Elimination of AMS Beyond De Minimis to Reduce Distortions in Global Agricultural Trade—Some Incremental Steps,” Submission by China and India, JOB/AG/137, June 23, 2018.

<sup>87</sup> WTO, “Framework for Negotiations on Domestic Support,” Communication from Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, The Philippines, Thailand, Ukraine, Uruguay and Vietnam, JOB/AG/177, January 23, 2020.

<sup>88</sup> Valeria Piñeiro and Martin Piñeiro et al., *Trade Interests and Challenges at the WTO Ministerial Conference in Buenos Aires: A Southern Cone Perspective*, Inter-American Institute for Cooperation on Agriculture, International

reduced domestic support levels in developed countries, and are increasing in size for developing countries. A second concern was that the current AMS caps apply only to the aggregate level of support across all commodities, but that developed countries tend to provide trade-distorting support in the form of product-specific subsidies that may not count toward total AMS caps.

The three countries' paper proposed a continuation of the reform process in market access, implemented in steps, including converting complex tariffs to ad valorem rates<sup>89</sup> and reducing tariffs while assuring special and differential treatment for developing countries. The paper also emphasized the need for reaching an agreement on the special safeguard mechanism for the developing countries. It called for further discussions about export restrictions and environmental standards, neither of which is currently covered by the AoA.

## Issues for Congress

As the United States and other WTO members prepare for MC12 in 2021, Congress may consider both the benefits and drawbacks of adhering to a multilateral set of disciplines on agricultural domestic and trade policies. These include how the WTO limits the support the United States and U.S. state governments may provide, as well as how it limits the support other WTO members can provide to their own domestic agricultural sectors.

As described in this report, the WTO previously envisioned large-scale reforms to the AoA, many of which have not materialized. However, outside of the Doha Round, WTO members reached agreements on a limited number of issues first raised within the negotiating round, suggesting there may be political will to address discrete reforms in future ministerial conferences. To that end, Congress may consider providing input to the executive branch about how to shape the U.S. agenda leading up to the MC12.

In addition, retaliatory tariffs arising from recent trade disputes with China and other countries, combined with the impact of COVID-19, have resulted in projected declines in farm incomes. Bankruptcy filings by U.S. farmers and U.S. agribusiness companies have increased.<sup>90</sup> USDA's response to China's retaliatory tariffs and the COVID-19 emergency includes large payments to the U.S. farm sector that may lead other countries to raise questions about U.S. willingness to fulfill its commitments under the AoA. Ahead of the Ministerial, Congress may wish to consider various options to modify the safety net now in place for the U.S. farm sector to ensure compliance with U.S. WTO commitments.

Other WTO member concerns arising during the pandemic have gained prominence and have implications for agriculture, most notably, climate change as it relates to productivity growth, biosecurity, water management, and biodiversity.<sup>91</sup> Governments have the option to address these

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Center for Trade and Sustainable Development, Institute for International Agricultural Negotiations Foundation, International Food Policy Research Institute, Buenos Aires Grain Exchange, and Group of Producing Countries from the Southern Cone, 2017.

<sup>89</sup> Ad valorem tariffs are applied as a percentage of the import value of a good, while complex tariffs may include ad valorem tariffs as well as specific tariffs that are applied as a specific monetary value per quantitative unit (such as per ton or per kilogram).

<sup>90</sup> For more on this issue, see Food and Agricultural Policy Research Institute, "Early Estimates of the Impacts of COVID-19 on U.S. Agricultural Commodity Markets, Farm Income and Government Outlays," FAPRI-MU Report #02-20, April 2020; and American Farm Bureau Federation, "COVID-19 Will Likely Push Farm Bankruptcies Higher," May 7, 2020.

<sup>91</sup> For a full analysis of WTO member submissions on the topic, see Lars Brink and David Orden, "Taking Stock and Looking Forward on Domestic Support Under the WTO Agreement on Agriculture," International Agricultural Trade Research Consortium, Commissioned Paper No. 23, April 2020.



and other priorities through, among other means, green box support measures that are exempt from spending limits under AoA commitments, and Congress may wish to consider legislative efforts to do so.

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